



Cornell University
ILR School

Cornell University ILR School
DigitalCommons@ILR

Consent Decrees

Labor and Employment Law Program

7-12-2000

Equal Employment Opportunity Commission v. Health Centers of Northern New Mexico

Judge James A. Parker

Follow this and additional works at: <https://digitalcommons.ilr.cornell.edu/condec>

Thank you for downloading this resource, provided by the ILR School's Labor and Employment Law Program. [Please help support our student research fellowship program with a gift to the Legal Repositories!](#)

This Article is brought to you for free and open access by the Labor and Employment Law Program at DigitalCommons@ILR. It has been accepted for inclusion in Consent Decrees by an authorized administrator of DigitalCommons@ILR. For more information, please contact catherwood-dig@cornell.edu.

If you have a disability and are having trouble accessing information on this website or need materials in an alternate format, contact web-accessibility@cornell.edu for assistance.

Equal Employment Opportunity Commission v. Health Centers of Northern New Mexico

Keywords

EEOC, Health Centers of Northern New Mexico, CIV 99-1104 JP/LFG, Consent Decree, Disparate Treatment, Constructive Discharge, Work Assignment, Sexual Harassment, Retaliation, Sex, Female, Healthcare, Title VII, Employment Law

FILED
U.S. DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

JUL 12 2000

[Signature]
CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
)	
Plaintiff,)	CIV 99-1104 JP/LFG
)	
v.)	
)	
HEALTH CENTERS OF NORTHERN)	CONSENT DECREE
NEW MEXICO,)	
)	
Defendant.)	
_____)	

The United States Equal Employment Opportunity Commission (the "Commission" or "EEOC") filed this action against Health Centers of Northern New Mexico ("Health Centers" or "defendant") to enforce Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. ("Title VII") and the Civil Rights Act of 1991, 42 U.S.C. § 1981a. In the complaint, the Commission alleged that Julie Romero and other women were subjected to sexual harassment by defendant in violation of Title VII. The Commission also alleged that defendant retaliated against Julie Romero by transferring, demoting, and forcing her to resign because she complained about the sexual harassment.

51

The parties do not object to the jurisdiction of the Court over this action and waive their rights to a hearing and the entry of findings of fact and conclusions of law. This decree does not constitute an admission of liability by the defendant, nor an adjudication on the merits of the allegations of the complaint.

It is hereby **ORDERED, ADJUDGED AND DECREED:**

1. This decree resolves all claims of the Commission against defendant, including claims for back pay, compensatory and punitive damages, interest, injunctive relief, attorney's fees and costs arising out of the issues in this lawsuit.

INJUNCTION

2. Defendant, its managers, agents, officers, employees, successors and assigns and all persons in active concert or participation with it, is permanently enjoined for the duration of the decree from discriminating against any employee because of his or her sex, including sexual harassment. In addition, defendant, its managers, agents, officers, employees, successors and assigns and all persons in active concert or participation with it, are permanently enjoined from retaliating against any employee who: (a) opposes practices made unlawful by Title VII or a state equal employment opportunity statute; (b) makes a charge of discrimination or assists or participates in an investigation or proceeding under Title VII or a state equal employment opportunity statute; or (c) files an internal complaint of discrimination. This injunction will remain in effect for the duration of the decree at any facility operated by defendant in New Mexico.

RELIEF TO CHARGING PARTY AND CLASS MEMBERS

3. In accordance with this decree, Julie M. Romero shall receive thirty thousand

dollars (\$30,000.00) in compensatory damages from Health Centers in full and complete settlement of all claims against Health Centers arising out of the facts and issues included in this lawsuit.

4. In accordance with this decree, Dorothy Crespín, as a class member, shall receive five thousand dollars (\$5,000.00) in compensatory damages, in full and complete settlement of all claims against Health Centers arising out of the facts and issues included in this lawsuit.

5. In accordance with this decree, Emily Jaramillo, as a class member, shall receive five thousand dollars (\$5,000.00) in compensatory damages, in full and complete settlement of all claims against Health Centers arising out of the facts and issues included in this lawsuit.

6. Health Centers shall separately mail the checks, via certified mail, to Ms. Romero, Ms. Crespín and Ms. Jaramillo at the addresses provided by the EEOC. Within twenty (20) days of the issuance of the checks, Health Centers will submit a copy of the checks and related correspondence to the Regional Attorney, Equal Employment Opportunity Commission, 505 Marquette NW, Suite 900, Albuquerque, New Mexico 87102-2189.

7. In response to any employment inquiries or reference checks concerning charging party Julie M. Romero or the class members, defendant shall provide only the individual's dates of employment, each position held, job duties and salary. This provision shall remain in force for so long as charging party Julie M. Romero or the class members use Health Centers as a reference and is not limited to the three (3) year duration of this decree.

8. Defendant shall not take any action against charging party Julie M. Romero or class members Dorothy Crespín and Emily Jaramillo in this case in retaliation for filing a charge of employment discrimination or for participating, assisting or testifying in this action.

DEFENDANT'S CORRECTIVE POLICIES AND PRACTICES

9. Defendant shall institute and carry out policies and practices that promote a work environment free from sex discrimination, including policies and practices to prevent sexual harassment of its employees and other individuals, and that allow employees and other individuals to raise concerns or complaints about matters made unlawful by Title VII, whether alleged, perceived or actual without retaliation. To assist defendant in its effort to promote a work environment free of sex discrimination, sexual harassment and retaliation, defendant shall take the actions provided for in Paragraphs 10 through 13.

10. Defendant shall review its existing policies on sex discrimination, including sexual harassment, and make any changes necessary so that its policies comply with Title VII. Defendant shall ensure its written policies include a statement that employees have a right to complain to or file directly with the EEOC or any state equal opportunity agency. After reviewing and making any necessary revisions to its policies, defendant shall distribute a copy of its sexual harassment policy to each of its current full and part-time employees, and to each new employee hired for the duration of this decree.

11. Defendant shall provide its employees with revised written policy statements and procedures regarding reporting and prevention of sexual harassment and retaliation. The policy and procedure statements that are provided to defendant's employees should be designed to present easily understood, convenient, confidential and reliable procedures for reporting incidents of sexual harassment and retaliation in defendant's New Mexico facilities. These procedures, at a minimum, shall provide as follows:

A. At least one (1) employee from each of defendant's regions in a supervisory or

managerial position shall be designated to serve as investigative officer for sexual harassment issues;

- B. The names, responsibilities, work locations, and telephone numbers of the investigative officer(s) will routinely and continuously be posted and provided to all employees so that an employee seeking such name can enjoy anonymity and remain inconspicuous to other employees;
- C. Complaints of sexual harassment or retaliation will be accepted in writing or orally, and anonymous complaints will be taken seriously and investigated;
- D. Only those who have an immediate need to know, including the investigative officer, the alleged target of harassment or retaliation, the alleged harasser(s) or retaliator(s) and any witnesses, may find out the identity of the complainant;
- E. All parties contacted in the course of an investigation will be advised that any retaliation or reprisal against an individual who is an alleged target of harassment or retaliation, who has made a complaint, or who has provided evidence in connection with a complaint will not be tolerated and could result in disciplinary action;
- F. Each investigative officer will receive thorough training about sexual harassment and will have the responsibility for expeditiously investigating all complaints. This training shall consist of at least three hours in addition to that provided under Paragraph 13;
- G. The investigative officer will recommend remedial measures, if appropriate, based upon the results of the investigation, and defendant will promptly consider and act upon such recommendation;

H. The investigative officer will maintain a file on the original complaint(s) and any follow-up investigation;

I. Defendant's managers, officials, agents or employees who engage in sexual harassment or retaliation, who fail to cooperate with company-sponsored investigations of sexual harassment or retaliation, or who refuse to implement remedial measures will be advised that they may be sanctioned severely by suspension or dismissal.

12. Defendant shall post within thirty (30) days of the entry of this Consent Decree, and continuously for a period of thirty-six (36) months in prominent places frequented by employees in all defendant's New Mexico facilities, the Notice attached to this decree as Exhibit A. This Notice shall be the same type, style and size as in Exhibit A.

13. Defendant shall provide training on sex discrimination, including sexual harassment and retaliation according to the following terms:

A. Defendant shall provide at least three (3) training sessions during the term of this decree. All managers, supervisors and employees at all of defendant's facilities in New Mexico shall attend the training. Duplicative sessions may be held to accommodate staffing needs. Defendant shall be responsible for all costs associated with this training.

B. During the first year of the decree, the training shall be conducted within six (6) months of the entry of this decree. Additional training shall be conducted at least once a year for the duration of this Decree.

- C. Defendant shall select a qualified trainer and shall submit the trainer's name, resume, training agenda and the date(s) of the proposed training to the Regional Attorney of the Albuquerque office of the Equal Employment Opportunity Commission within sixty days of the entry of this decree. During the second and third years of the decree, the above information shall be submitted to the *Regional Attorney at least ninety days prior to the seminar-training session.* The Commission shall have thirty (30) days from the date of receipt of the information described above to accept or reject the proposed consultant/lecturer and/or the contents of the seminar. In the event the Commission does not approve defendant's designated consultant/lecturer, the Commission shall designate the consultant/lecturer at a cost not to exceed \$1,000.00 per seminar-training session which shall be paid by defendant.
- D. The training shall include a minimum of two (2) hours of instruction. All personnel designated in Paragraph A shall both register and attend the training. The registry of attendance shall be retained by defendant at least for the duration of the decree.
- E. The training, at a minium, shall include the subjects of: what constitutes sex discrimination, including sexual harassment, harassment based on gender, and *retaliation; that sex discrimination in the hiring, firing, compensation,* assignment or other terms, conditions or privileges of employment and retaliation violates Title VII; how to prevent sex discrimination and retaliation;

how to provide a work environment free from sex discrimination, sexual harassment and retaliation; and to whom and by what means employees may complain if they feel they have been subjected to sex discrimination, sexual harassment and retaliation in the workplace.

- F. Within sixty (60) days following the training sessions, defendant's highest ranking managerial official in New Mexico shall speak to the employees about:
- (1) potential discipline that can be taken against supervisors, managers and employees who commit acts of sex discrimination or retaliation, or who allow sex discrimination or retaliation to occur in the workplace; (2) the importance of maintaining an environment free of sex discrimination and retaliation; and (3) the employer's policies regarding sex discrimination, sexual harassment and retaliation. This time shall not be counted toward the two (2) hour minimum training required in Paragraph 13.D.

- G. For the duration of this decree, at or around the time of hire, employees hired after the annual training is presented, shall view a video tape of the training and/or a professional training tape which covers the topics set forth in Paragraph 13.E. and shall be given any written material disseminated at the training.

14. The Commission, at its discretion, may designate Commission representatives to attend and participate in the training sessions described above.

REPORTING BY DEFENDANT AND ACCESS BY EEOC

15. Defendant shall report in writing and in affidavit form to the Regional Attorney

of the Commission's Albuquerque District Office at 505 Marquette NW, Suite 900, Albuquerque, New Mexico 87102-2189 beginning six months from the date of the entry of this decree, and thereafter every six months for the duration of the decree the following information:

- A. Any changes, modifications, revocations, or revisions to its policies and procedures which concern or affect the subject of sex discrimination, sexual harassment and retaliation.
- B. The job title or position of the employee who has brought allegations or complaints of sex discrimination, harassment, or retaliation arising from activities in defendant's New Mexico facilities against defendant or its personnel, including, but not limited to, management officials, vendors, agents, or employees, *the region where the employee is assigned, and the nature of the allegation or complaint*, investigatory efforts made by defendant and the corrective action taken, if any, shall be specified. The Commission shall have sixty (60) days from receiving the aforementioned allegation or complaint from defendant to ask for additional information from defendant concerning the allegations or complaints of sex discrimination, harassment, or retaliation, including the identity of the complainant (name, address, social security number and telephone number). The defendant shall have thirty (30) days from the Commission's request to obtain consent from the employee making the allegation or complaint to release to the Commission identifying information

(name, address, social security number and telephone number). If consent of the employee to release the employee's identifying information is not obtained by the defendant from the employee, the parties agree that the Commission may proceed with a subpoena, administrative or otherwise. The parties further agree that subpoenas relating to the allegations or complaints referred to in this paragraph may be enforced under this provision of the Consent Decree.

- C. The registries of persons attending each of the seminar-training sessions required in Paragraph 13 of this decree and a list of current employees on the day of the seminar-training session.
- D. An affidavit by defendant stating: (1) the Notice required in Paragraph 12 of this decree was posted and the locations where it was posted; and (2) it has complied with paragraphs 10, 11, 12 and 13 of this decree.

16. The Commission, upon reasonable notice, shall have the right to enter and inspect the premises of defendant's New Mexico facilities to ensure compliance with this decree and federal anti-discrimination laws.

COSTS AND DURATION

17. Each party shall bear its costs and attorney's fees incurred as a result of this action through the entry of this decree.

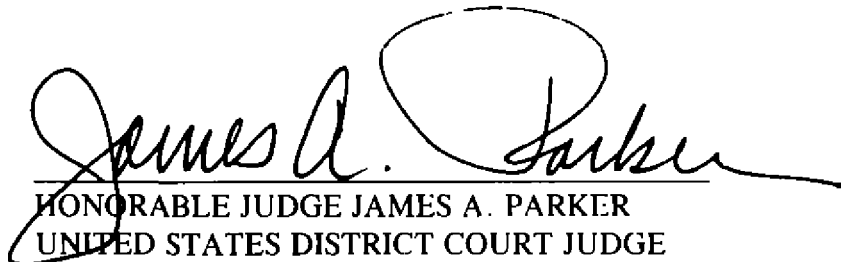
18. The duration of this decree shall be three (3) years from its entry, with the exception of Paragraph 15.B., which term shall be two (2) years from entry of the decree. This Court shall retain jurisdiction of this action for the duration of the decree, during which the Commission may petition this Court for compliance with this decree. Should the Court determine that defendant has not complied with this decree, appropriate relief, including

extension of this decree for such period as may be necessary to remedy its non-compliance, may be ordered.

19. Paragraph 15.B shall expire at the end of two (2) years after entry of this decree. All remaining provisions of this decree shall expire at the end of three (3) years after entry of this decree, without further action by the parties.

20. The parties agree to entry of this decree and judgment subject to final approval by the Court.

ENTERED AND ORDERED this ____ day of _____, 2000.

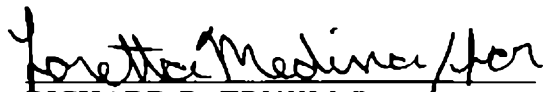

HONORABLE JUDGE JAMES A. PARKER
UNITED STATES DISTRICT COURT JUDGE

APPROVED AND CONSENTED TO:

C. GREGORY STEWART
General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
1801 L Street, NW
Washington, D.C. 20507


RICHARD R. TRUJILLO
Regional Attorney

Loretta Medina / for

C. EMANUEL SMITH
Supervisory Trial Attorney

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
3300 N. Central Ave., Suite 690
Phoenix, Arizona 85012

Nancy Franchini

J.E. CASADOS
NANCY FRANCHINI

GALLAGHER, CASADOS & MANN, P.C.
317 Commercial N.E., 2nd Floor
Albuquerque, New Mexico 87102
Telephone: (505) 243-7848

Attorneys for Defendant

Loretta Medina / for

VERONICA A. MOLINA
Trial Attorney

LORETTA MEDINA
Senior Trial Attorney

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
Albuquerque District Office
505 Marquette NW, Suite 900
Albuquerque, New Mexico 87102-2189
Telephone: (505) 248-5231

Attorneys for Plaintiff

NOTICE TO ALL EMPLOYEES
OF HEALTH CENTERS OF NORTHERN NEW MEXICO

It is unlawful under the federal law (Title VII of the Civil Rights Act) and state law to discriminate against an employee on the basis of sex in hiring, firing, compensation or other terms, and conditions or privileges of employment, including sexual harassment.

Your employer prohibits all forms of sexual harassment. Prohibited sexual harassment includes, but is not limited to, the following conduct:

1. unwelcome touching of a sexual nature;
2. unwelcome discussion of sexual jokes and sexual behavior;
3. unwelcome requests for dates, sexual favors and propositions; and
4. unwelcome distribution in the workplace of cartoons, pictures or drawings of a sexual nature.

Your employer shall not discriminate on the basis of sex and shall not retaliate against any employee who opposes a practice made unlawful under federal law, files, assists or participates in the filing of a charge of discrimination or participates in any investigation under Title VII, or who files a grievance alleging discrimination.

If you believe you are being sexually harassed, discriminated against or retaliated against you should report this to your manager or the designated investigative officer for your workplace.

If for any reason you believe your complaint may not be effective at your work place, or you feel uncomfortable making a complaint at your work place, you have a right to complain to or file directly with:

- 1) Equal Employment Opportunity Commission (EEOC), 505 Marquette, Suite 900, Albuquerque, New Mexico 87102, 1-800-669-4000.

or

- 2) The New Mexico Department of Labor, Human Rights Division, 1596 Pacheco St., Suite 103, Santa Fe, New Mexico 87505, (505) 827-6838.

You have the right to file a charge with the EEOC or the Department of Labor if you believe you are being discriminated against.

EXHIBIT A